

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

---

---

FISHER-PRICE, INC. and  
MATTEL, INC.,

Plaintiffs,

v.

DECISION AND ORDER  
10-CV-00988

KIDS II, INC.

Defendant.

---

---

This case was referred to Magistrate Judge Leslie G. Foschio, pursuant to 28 U.S.C. §636(b)(1), on January 5, 2011. On November 3, 2011, Defendant filed a motion to stay litigation pending reexamination of the patent-in-suit by the U.S. Patent and Trademark Office. On December 21, 2011, Magistrate Judge Foschio issued a Decision and Order denying Defendant Kids II's motion to stay litigation. Defendant filed objections to the Magistrate Judge's Decision and Order on January 11, 2012 and this Court heard oral argument on those objections on August 9, 2012.

Pursuant to 28 U.S.C. §636(b)(1)(A), the district court "may reconsider any pretrial matter under this subparagraph (A), where it has been shown that the magistrate's order is clearly erroneous or contrary to law." *Id.* The Court has carefully reviewed Magistrate Judge Foschio's Decision and Order and the submissions of the parties. Upon such review and after hearing argument from

counsel, the Court finds that Magistrate Judge Foschio's Decision and Order is neither clearly erroneous nor contrary to law. Accordingly, the Court affirms the Decision and Order in its entirety.

SO ORDERED.

s/ Richard J. Arcara

HONORABLE RICHARD J. ARCARA  
UNITED STATES DISTRICT JUDGE

DATED: August 15, 2012